

REMARKS

The enclosed is responsive to the Examiner's Office Action mailed on June 13, 2008. At the time the Examiner mailed the Office Action, claims 1, 3-7, 9-13 and 15-18 were pending. By way of the present response, Applicants have: 1) amended claims 1, 7, 13, 16; and 2) added no claims; and 3) canceled claims 3, 9, and 15. As such, claims 1, 4-7, 10-13 and 16-18 are now pending. No new matter has been added. Reconsideration of this application as amended is respectfully requested.

Objection to the Specification

The Office Action has objected to the specification for not including a brief summary. Applicants reassert that a brief summary is not required. Nevertheless, Applicants have amended the specification to include a brief summary in the interest of furthering prosecution.

Objection to the Information Disclosure Statement

The Office Action has objected to the contents of the information disclosure statement filed 02/15/08 as failing to comply with the provisions of 37 C.F.R. §1.98(a)(2)(iii) because “[t]hese IDS appears citing about the US pending applications but it does not submit legal copies of the cited information.” (Office Action dated 6/13/08, page 4) (emphasis in original). Applicants are not attempting to submit an unpublished U.S. application. Applicants are instead submitting references cited in the unpublished U.S. application and related Office Actions that cited those references. Applicants are resubmitting the office actions herewith in an attempt to comply with 37 C.F.R. §1.56 and respectfully submit that 37 C.F.R. §1.98(a)(1) states that an IDS shall include a “list of all patents, publications, applications, or other information submitted for consideration by the Office.” (emphasis added).

Claim Rejections

35 U.S.C. 112 Rejections

Claims 7 and 10-12 stand rejected under 35 U.S.C. §112, first paragraph, as being based upon a disclosure which is not enabling because the words “storage medium” were not included in the specification. Applicants respectfully disagree and submit that one of ordinary skill in the art would not find that undue experimentation is needed to practice one or more embodiments of the invention according to claims 7 and 10-12. The claim language, “A storage medium comprising content which, when executed by an accessing machine, causes the accessing machine to:” is clearly directed to software recited in conjunction with a physical structure. The specification, in more than one instance, refers to embodiments that include software. For example, “the functionality of control point generator 200 may be performed by software within, or in cooperation with, an electronic appliance not depicted.” (Detailed description, paragraph [0019]). It is well known to those of ordinary skill in the art that a software embodiment would include instructions stored on a storage medium. “The specification need not disclose what is well-known to those skilled in the art and preferably omits that which is well-known to those skilled and already available to the public.” (MPEP 2164.05(a) quoting *In re Buchner*, 929 F.2d 660, 661 (Fed. Cir. 1991)) (emphasis added). Accordingly, Applicants submit that the rejection of claims 7 and 10-12 has been overcome.

Claims 1, 4-7, 10-13, and 16-18 stand rejected under 35 U.S.C. §112 as failing to set forth the subject matter which Applicants regard as their invention. Applicants have amended the claims to clarify the subject matter claimed. For example, claim 1 now reads in part,

generating custom source code based on the accessed information, without utilizing a control point stack, to efficiently implement the control point on the device by including only the services associated with the device.

(Claim 1).

Support for the amendments are found in the specification as originally filed, for example, in paragraph [0019].

It is respectfully submitted that a negative limitation, such as “without utilizing a control point stack” is not inherently ambiguous or uncertain. (see MPEP 2173.05(i)). Applicants respectfully submit that the negative limitation has a basis in the specification and that the boundaries of the claims are set forth definitely. Accordingly, Applicants submit that the rejection of claims 1, 4-7, 10-13, and 16-18 has been overcome.

Claim 16 stands rejected under 35 U.S.C. §112 as being dependent upon a canceled claim. Applicants have amended claim 16 to correct its dependence. Accordingly, Applicants submit that the rejection of claim 16 has been overcome.

35 U.S.C. 103(a) Rejections

The Examiner has rejected claims 1, 4-7, 10-13, and 16-18 under 35 U.S.C. §103(a) as being unpatentable over, Microsoft Corporation, “Hosting Devices on Windows XP Using Universal Plug and Play,” 5-2202 (hereinafter “Microsoft”), in view of UPnP™ Forum, “Universal Plug and Play Device Architecture”, version 1.0, June 2000 (pp: 1-46) (hereinafter “UPnP™ Forum”) and Aho et al, “Compilers Principles, Techniques, and Tools,” 1998 (hereinafter “Aho”).

Microsoft describes the use of plug and play within Windows® XP and gives a broad overview of the functionality of plug and play. In particular, Microsoft states that service objects and device control objects must be implemented and provided by the developer.

UPnP™ Forum describes an overview of UPnP and defines the protocols for communication between control points and devices for discovery, description, control, eventing, and presentation. UPnP™ Forum describes the use of control points but is silent in regard to the creation of control points.

Aho describes the principles and techniques of compiler writing. In particular, Aho describes that a compiler takes source code and creates a target program.

Applicants respectfully submit that the references, alone or in combination, fail to disclose:

generating custom source code based on the accessed information, without utilizing a control point stack, to efficiently implement the control point on the device by including only the services associated with the device.

(Claim 1) (emphasis added).

Microsoft only states that a developer must implement and provide service objects and device control objects. Microsoft is silent in regard to how these objects are generated. Furthermore, Microsoft is silent to the inclusion or exclusion of a control point stack or services beyond those associated with a device. UPnPTM Forum discloses the general protocols for communication between existing controllers, or control points, and devices. (UPnPTM Forum, In this document, pages 1-2). Similarly, UPnPTM Forum generally states, “OS vendors may create APIs that suit their customer’s needs” without any indication as to how these APIs are created. Aho is solely concerned with compilers and does not address UPnP and control points. Therefore, the references do not disclose **generating custom source code based on the accessed information**. The references further fail to disclose implementing the control point without utilizing a control point stack by include only the services associated with the device.

Additionally, the Office Action’s assertion that “claimed composition that expressly excluded an ingredient held anticipated by reference composition that **optionally included** that same ingredient” is inapplicable to the present application and the references cited. (Office Action mailed 6/13/08, pages 8-9, quoting Upsher-Smith Labs) (emphasis added). In Upsher-Smith Labs, the Federal Circuit was concerned with whether the optional inclusion of antioxidants in a vitamin supplement anticipated the express exclusion of antioxidants in a vitamin supplement. (Upsher-Smith Labs, 412 F.3d 1319, 1321). In contrast, none of the references discusses the optional inclusion of a control point stack or services not associated with the device in the generation of custom source code to implement a control point. Instead, the references focus on the functionality and

protocols of UPnP with existing control points. The Office Action has improperly relied upon two very basic overviews of UPnP and construed their silence regarding how a control point is generated to be an optional inclusion of the details of the present application's claim language. Therefore, Applicants assert that the combination of Microsoft, UPnP™ Forum, and Aho fail to disclose the features of claim 1.

Accordingly, Applicants respectfully submit that the Examiner's rejection of claim 1 under 35 U.S.C. §103(a) has been overcome.

Given that independent claims 7 and 13 include claim language similar to claim 1, and are likewise not rendered obvious by the combination of Microsoft, UPnP™ Forum, and Aho, Applicants respectfully submit that the Examiner's rejection of claims 7 and 13 has been overcome for at least the reasons above.

Given that claims 4-6, 10-12 and 16-18 are dependent upon claims 1, 7, and 13, and include additional features, Applicants respectfully submit that the Examiner's rejection of claims 4-6, 10-12 and 16-18 under 35 U.S.C. §103(a) has been overcome for at least the reasons above.

CONCLUSION

Applicants respectfully submit that in view of the amendments and arguments set forth herein, the applicable objections and rejections have been overcome. Applicants reserve all rights under the doctrine of equivalents.

Pursuant to 37 C.F.R. 1.136(a)(3), applicant hereby requests and authorizes the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

If a telephone conference would facilitate the prosecution of this application, Examiner is invited to contact Ryan W. Elliott at (408) 720-8300.

Respectfully submitted,
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Date: 9/15/08 _____ /Ryan W. Elliott/

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